

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Houston Division

MAY 9 - 2006

PETITION FOR A WRIT OF HABEAS CORPUS BY A
PERSON IN STATE CUSTODY

Helen Ann Caples and 25
PETITIONER Hobby unit offenders
(Full name of Petitioner)

Hobby
CURRENT PLACE OF CONFINEMENT

535949

PRISONER ID NUMBER

vs.
WARDEN LOVETTA KNOX
Texas Dept. Criminal Justice

Texas Dept. Crim Justice Executive Board
RESPONDENT

(Name of TDCJ Director, Warden, Jailer, or
authorized person having custody of petitioner)

H - 06 - 1575

CASE NUMBER

(Supplied by the Clerk of the District Court)

INSTRUCTIONS - READ CAREFULLY

1. The petition must be legibly handwritten or typewritten, and signed by the petitioner, under penalty of perjury. Any false statement of an important fact may lead to prosecution for perjury. Answer all questions in the proper space on the form.
2. Additional pages are not allowed except in answer to questions 11 and 20. Do not cite legal authorities. Any additional arguments or facts you want to present must be in a separate memorandum.
3. When the Clerk of Court receives the \$5.00 filing fee, the Clerk will file your petition if it is in proper order.
4. If you do not have the necessary filing fee, you may ask permission to proceed *in forma pauperis*. To proceed *in forma pauperis*, (1) you must sign the declaration provided with this petition to show that you cannot prepay the fees and costs, and (2) if you are confined in TDCJ-ID, you must send in a certified *In Forma Pauperis* Data Sheet from the institution in which you are confined. If you are in an institution other than TDCJ-ID, you must send in a certificate completed by an authorized officer at your institution certifying the amount of money you have on deposit at that institution. If you have access or have had access to enough funds to pay the filing fee, then you must pay the filing fee.

5. Only judgments entered by one court may be challenged in a single petition. If you want to challenge judgments entered by different courts, either in the same state or in different states, you must file separate petitions as to each court.
6. Include all your grounds for relief and all the facts that support each ground for relief in this petition.
7. When you have finished filling out the petition, mail the original and two copies to the Clerk of the United States District Court for the federal district within which the State court was held which convicted and sentenced you, or to the federal district in which you are in custody. A "VENUE LIST," which lists U.S. District Courts in Texas, their divisions, and the addresses for the clerk's office for each division, is posted in your unit law library. You may use this list to decide where to mail your petition.
8. Petitions that do not meet these instructions may be returned to you.

PETITION

What are you challenging? (Check only one)

- A judgment of conviction or sentence, probation or deferred-adjudication probation (Answer Questions 1-4, 5-12 & 20-23)
- A parole revocation proceeding. (Answer Questions 1-4, 13-14, & 20-23)
- A disciplinary proceeding. (Answer Questions 1-4, 15-19 & 20-23)

All petitioners must answer questions 1-4:

1. Name and location of the court (district and county) which entered the conviction and sentence that you are presently serving or that is under attack: Harri's County
2. Date of judgment of conviction: September 25 1989
3. Length of sentence: Twenty year Sentence
4. Nature of offense and docket number (if known): unauthorized use of a motor vehicle

Judgment of Conviction or Sentence, Probation or Deferred-Adjudication Probation:

5. What was your plea? (Check one)

Not Guilty Guilty Nolo contendere

6. Kind of trial: (Check one) Jury Judge Only

7. Did you testify at the trial? Yes No

8. Did you appeal the judgment of conviction? Yes No

9. If you did appeal, in what appellate court did you file your direct appeal?

N/A Cause Number (if known) N/A

What was the result of your direct appeal (affirmed, modified or reversed): N/A

What was the date of that decision? N/A

If you filed a petition for discretionary review after the decision of the court of appeals, answer the following:

Result: N/A

Date of result: N/A Cause Number (if known): _____

If you filed a petition for *writ of certiorari* with the United States Supreme Court, answer the following:

Result: None

Date of result: None

10. Other than a direct appeal, have you filed any petitions, applications or motions from this judgment in any court, state or federal? This includes any state application for writ of habeas corpus that you may have filed.

Yes No

11. If your answer to 10 is "Yes," give the following information:

Name of court: 178 Th

Nature of proceeding: Civil Rights complaint

Cause number (if known): 5426 27

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court.

August 29 2005

Grounds raised: Petitioner's constitutional Rights Violated

Date of final decision: 1/30/06 Re: W.R.T. NO. WR-64-031-01

Name of court that issued the final decision: Harris County 178th

As to any second petition, application or motion, give the same information:

Name of court: N/A

Nature of proceeding: N/A

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court.

Grounds raised: N/A

Date of final decision: N/A

Name of court that issued the final decision: N/A

If you have filed more than two petitions, applications, or motions, please attach an additional sheet of paper and give the same information about each petition, application, or motion.

12. Do you have any future sentence to serve after you finish serving the sentence you are attacking in this petition?

Yes No

(a) If your answer is "yes," give the name and location of the court that imposed the sentence to be served in the future:

N/A

(b) Give the date and length of the sentence to be served in the future: N/A

(c) Have you filed, or do you intend to file, any petition attacking the judgment for the sentence you must serve in the future?

Yes No

Parole Revocation:

13. Date and location of your parole revocation: N/A

14. Have you filed any petitions, applications, or motions in any state or federal court challenging your parole revocation?

Yes No

If your answer is "yes," complete Question 11 above regarding your parole revocation.

Disciplinary Proceedings:

15. For your original conviction, was there a finding that you used or exhibited a deadly weapon? Yes No

16. Are you eligible for mandatory supervised release? Yes No

17. Name and location of prison or TDCJ Unit that found you guilty of the disciplinary violation:

Hobby unit 742 fm 712 marlin Texas 76661

Disciplinary case number: N/A

18. Date you were found guilty of the disciplinary violation: N/A

Did you lose previously earned good-time credits? Yes No

Identify all punishment imposed, including the length of any punishment if applicable, any changes in custody status, and the number of earned good-time credits lost: _____

(See Attach)

19. Did you appeal the finding of guilty through the prison or TDCJ grievance procedure?

Yes No

If your answer to Question 19 is "yes," answer the following:

Step 1 Result: WARREN HAMLIN FAILED TO REVIEW ISSUES

Date of Result: 2/10/06

Step 2 Result: SAME RESULT

Date of Result:

3/7/06

All applicants must answer the remaining questions:

20. State clearly every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting them.

CAUTION:

Exhaustion of State Remedies: You must ordinarily present your arguments to the highest state court as to each ground before you can proceed in federal court.

Subsequent Petitions: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

Following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement is a separate ground for possible relief. You may raise any grounds, even if not listed below, if you have exhausted your state court remedies. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your belief that you are being held unlawfully.

DO NOT JUST CHECK ONE OR MORE OF THE LISTED GROUNDS. Instead, you must also STATE the SUPPORTING FACTS for ANY ground you rely upon as the basis for your petition.

- (a) Conviction obtained by a plea of guilty which was unlawfully induced, or not made voluntarily, or made without an understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by the use of a coerced confession.
- (c) Conviction obtained by the use of evidence gained from an unconstitutional search and seizure.
- (d) Conviction obtained by the use of evidence obtained from an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the prosecution's failure to tell the defendant about evidence favorable to the defendant.
- (g) Conviction obtained by the action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (h) Conviction obtained by a violation of the protection against double jeopardy.
- (i) Denial of effective assistance of counsel.
- (j) Denial of the right to appeal.
- (k) Violation of my right to due process in a disciplinary action taken by prison officials.

A. **GROUND ONE:** The STATE OF TEXAS has violated the constitutional Rights of First Amendment Freedom of Speech

Supporting FACTS (tell your story briefly without citing cases or law):

See: memorandum

B. **GROUND TWO:** The STATE OF TEXAS has violated The constitutional Right of The Eighth Amendment

Supporting FACTS (tell your story briefly without citing cases or law):

See: memorandum

C. **GROUND THREE:** The STATE OF TEXAS has violated The constitutional Right of The Fourteenth Amendment

Supporting FACTS (tell your story briefly without citing cases or law):

See: memorandum

D. GROUND FOUR: _____

n/a

Supporting FACTS (tell your story briefly without citing cases or law):

n/a

21. Have you previously filed a federal habeas petition attacking the same conviction, parole revocation, or disciplinary proceeding that you are attacking in this petition?

Yes

No

If your answer is "yes," give the date on which each petition was filed, the federal court in which it was filed, and whether the petition was (a) dismissed without prejudice or (b) denied.

22. Are any of the grounds listed in paragraph 20 above presented for the first time in this petition?

Yes

No

If your answer is "yes," state briefly what grounds are presented for the first time and give your reasons for not presenting them to any other court, either state or federal.

n/a

23. Do you have any habeas corpus proceedings or appeals now pending in any court, either state or federal, relating to the judgment or proceeding under attack?

Yes No

If "yes," identify each type of proceeding that is pending (i.e., direct appeal, art. 11.07 application, or federal habeas petition), the court in which each proceeding is pending, and the date each proceeding was filed.

May 12 2005 I Filed a 1983 claim its still Pending in Falls Co.
W-05-CA-204 And 1107 in court of criminal Appeals

Wherefore, petitioner prays that the Court grant him the relief to which he may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____ (month, date, year).

Executed on May 1, 2006 (date).


Signature of Petitioner (required)

Petitioner's current address: Hobby un.7 742 FM 712 Marlin TX 76661

A103
Texas Department of Criminal Justice

STEP 1

OFFENDER GRIEVANCE FORM

Offender Name: Helen Caples TDCJ # 535949
 Unit: HB Housing Assignment: 1-C-111-B
 Unit where incident occurred: HB

OFFICE USE ONLY	
Grievance #:	<u>2006072867</u>
Date Received:	<u>JAN 02 2006</u>
Date Due:	<u>02-11-2006</u>
Grievance Code:	<u>401</u>
Investigator ID #:	<u>I1344</u>
Extension Date:	<u>02-06-2006</u>
Date Retd to Offender:	<u>FEB 13 2006</u>

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.
 Who did you talk to (name, title)? I TALKED TO everybody about this matter When? EVERYDAY
 What was their response? BASICALLY THAT TDC CAN DO WHAT THEY WANT, WHEN THEY WANT
 What action was taken? I WROTE UP ALMOST EVERY DAY

State your grievance in the space provided. Please state who, what, when, where and disciplinary case number if appropriate.

I'm dropping this grievance on T.D.C. OFFICIALS FOR WRITING AN EXCESSIVE AMOUNT OF CODE 24, TALKING ANYWHERE OUTSIDE THE BUILDING YOU LIVE IN IS A DISCIPLINARY CASE. I WANT TO KNOW HOW T.D.C. OFFICIALS CAN TAKE SOMETHING SUCH AS OUR CONSTITUTION AND USE IT AGAINST US. IT STATES ITS FOLLOWED: "CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION OR PROHIBITING THE FREE EXERCISE THEREOF, OR ABRIDGING THE FREEDOM OF SPEECH OR OF THE PRESS, OR THE RIGHT TO THE PEOPLE TO PEACEABLY TO ASSEMBLE AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES. IF CONGRESS SHALL MAKE NO LAW AND RESPECTING AN ESTABLISHMENT OR ABRIDGING THE FREEDOM OF SPEECH, HOW CAN TDC MAKE A RULE PROHIBITING US FROM TALKING? HALF OUR LIFE IS SPENT HERE IN TDC BECAUSE OF TALKING CASES! AMENDMENT V STATES: "NO MAN BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW. BUT I HAVE BEEN DEPRIVED OF MY FREEDOM OF SPEECH, WRITTEN UP FOR TALKING AND DEPRIVED OF MY LIFE HERE IN TDC, FOR THE LAST SIXTEEN YEARS DUE TO DISCIPLINARY. APART OF MY CONSTITUTION ACCORDING TO CONGRESS HAS BEEN VIOLATED. MY "LIBERTY INTEREST" HAS BEEN RENDERED IN EFFECTIVE AND THESE CASES EFFECT MY RELEASE FROM SENTENCE OF CONFINEMENT THROUGH DILIGENT LABOR AND GOOD BEHAVIOR, SINCE THE RECORD SHOWS MY LAST CASE WAS 7-22-05 TDC OFFICIALS DOES NOT RECOGNIZE NOR ACKNOWLEDGE WHEN A PERSON IS TRYING TO OBTAIN A CLEAR RECORD IN ORDER TO GET OUT OF HERE, INSTEAD TDC OFFICIALS DO IT! THEY CAN TO KEEP US IN PRISON. I AM ILLEGALLY CONFINED AND RESTRAINED OF MY LIBERTY DUE TO DISCIPLINARY CASES, I HAVE NO EQUAL PROTECTION RIGHTS AS PROVIDED BY THE 14 AMENDMENT OF THE UNITED STATES CONSTITUTION AS WELL AS THE TEXAS STATE CONSTITUTION THIS RENDERING MY CONFINEMENT "UNCONSTITUTIONAL" JAN 02 2006

I-127 Front (Revised 9-1-2001) YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Give reason for appear (be specific): I am dissatisfied with the response at step 1 because...

This grievance was not answered, I want to know who passed the Bill for cases to be a part of the system, was it congress? The legislature? how can T.D.C. officials get away with violating so many of the amendments such as Amendment one 14 Amendment 8 Amendment and the 5 Amendment. ASST. Warden Hamilton answered my grievance as if I had appealed a case? This is not about an appeal, it just goes to show the grievance system is faulty

Action Requested to resolve your Complaint.

As For The Action Im Requesting, I Request For This Grievance To Be Processed, Answered To The Best Of Your Ability, So I Can Go To Step 2, And Then The Courts. I Would Also Like To Know Who Passed The Law To Write Cases.

Offender Signature: Helen Caples

Date: 12/30/05

Grievance Response: Disciplinary Case# 20060107636 has been reviewed and no procedural errors were identified. Your specific point of appeal is that the no talking rule violates your freedom of speech. The finding on this point is that you failed to obey a direct order by an officer to stop talking. As an offender, incarcerated in TDCJ, there are numerous rules and regulations that you are expected to follow, to include no talking when told not to.

Signature Authority:

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Date: 2/10/06

Offender Signature: Helen Caples

Date: 2/15/06

Grievance Response:

Major disciplinary case # 20060107636 has been reviewed. The disciplinary charges were appropriate for the offense. You pled guilty. No investigation deficiency was noted. All due process requirements were satisfied and the punishment assessed by the Disciplinary Hearing Officer was within agency guidelines. The Agency's policies and procedures are authorized and supported by the Texas Board of Criminal Justice. No further action is warranted in this matter.-d-sr

Signature Authority:

Kelli Ward

Date: MAR 07 2006

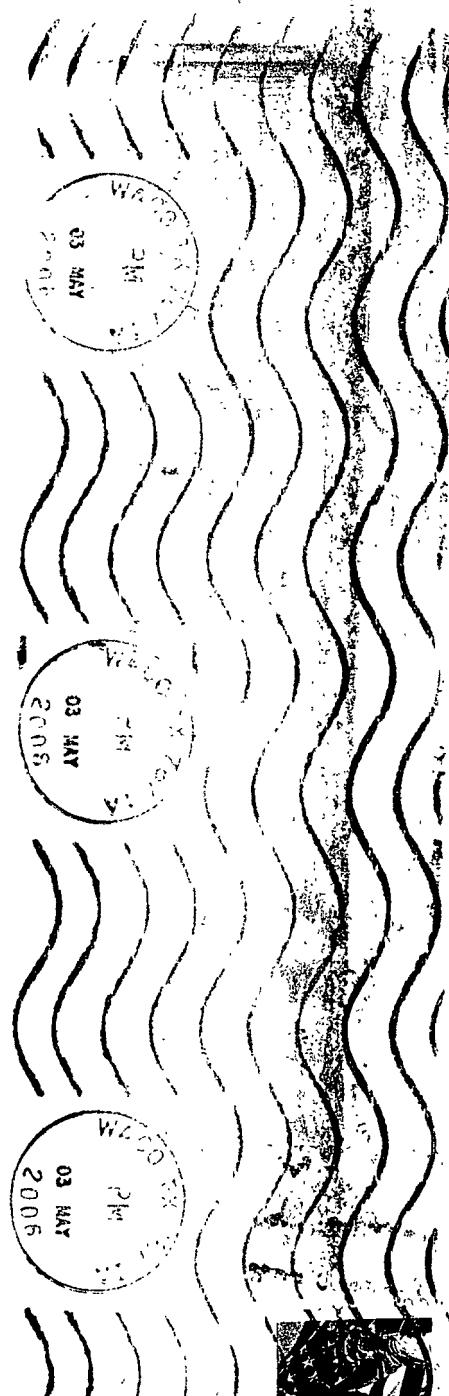
Kelli Ward

OFFICE USE ONLY

Helen Caples 535949

Hobby unit 742 FM 712

Marlin, TX 76661



H-06-1575

DOC

Harris County District Clerk

~~100 Court Street Bldg~~

~~301 Main Street~~

~~Houston, Texas 77002~~

P. O. Box 61010

Houston, TX

77208

LEGAL

MAIL

